

### **REMARKS/ARGUMENTS**

This amendment is in response to the Office Action of November 1, 2007 in which the Examiner (1) rejected claims 1-7 and 13-16 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,143,428 ("**Bruck**"), (2) rejected claim 8 under 35 U.S.C. 103(a) as being unpatentable over **Bruck**, (3) rejected claims 9, 10 and 12 under 35 U.S.C. 103(a) as being unpatentable over **Bruck** in view of U.S. Patent No. 6, 757,365 ("**Bogard**") and (4) rejected claim 11 under 35 U.S.C. 103(a) as being unpatentable over **Bruck** in view of U.S. Patent No. 7,146,629 ("**Tsukada**")

By the present amendment, claim 1 has been amended to be distinguishable from the cited references, claims 17-20 have been added, and claims 2, 5, 6, 8, 11, 15 and 16 have been cancelled. Additionally, claims 3, 4, 7, 9, 12, 13 and 14 have been amended for consistency with other claims.

Claim 1 has been amended to generally incorporate the subject matter of claim 8 with clarifying language (support for which can be found in the Specification at paragraphs 0059 and 0060), and new independent claim 20 incorporates the subject matter of canceled claim 11. New dependent claims 17-19 recite further features of the invention (supported, e.g., in the Specification at paragraphs 0035, 0036 and 0060) .

Applicant respectfully submits that amended claim 1 and new independent claim 20 are distinguishable from the cited references.

Amended claim 1 recites a communications network for users of an IM application, comprising display device, plural display windows at the display device, and a server that stores messaging content "so that video programming activity by multiple users can be tracked on a real time basis at the server in order to reflect moment-by-moment the level of instant messaging activity corresponding to television programs being viewed." Such a recited network is neither disclosed nor suggested in the cited references.

The Examiner cites **Bruck** for its showing of a server (94, 98, 99) for storing instant messaging content, and states that it would be obvious to aggregate messaging content

from multiple users "whereby video programming content activity by multiple users can be tracked" (page 5 of the Remarks). Applicant respectfully disagrees.

While **Bruck** does disclose a server, nowhere is there suggested aggregating IM content "so that video programming activity by multiple users can be tracked." It is not clear what is being stored at the servers in **Bruck**, but clearly there is no suggestion of storing and aggregating program IDs "identifying the broadcast television program being viewed by each user" that are part of the instant messaging content, as recited in claim 1. Furthermore, while the subject matter of original claim 8 (as now incorporated into claim 1) is believed distinguishable as originally presented, in order to advance prosecution, Applicant now further recites that the tracking is "on a real time basis at the server in order to reflect moment-by-moment the level of instantaneous messaging activity corresponding to television programs being viewed by the multiple IM application users." Such function and purpose is clearly neither disclosed nor suggested by **Bruck**.

As to independent claim 20, Applicant recites a display system similar to that originally recited in claims 1 and its dependent claim 11, including security keys assigned to each user for video programming, wherein a user may send a video file in an attachment to an IM message with a security key so that "the video data file is displayed to the remote user only if the remote user has a security key matching the security key associated with the video programming."

The Examiner cites **Tsukada** for its teaching of a security key associated with video programming being sent to a remote user, and states it would be obvious to use security keys as taught by **Tsukada**, in order to protect the video programming" (page 7 of the Remarks).

Applicant respectfully disagrees that **Tsukada** suggests the subject matter of claim 20. As best understood, **Tsukada** discloses a cable TV (CATV) network where multiple participants can register to receive programming from a cable channel and multi-user talking data from microphones (Fig. 7) or telephone lines (col. 17, lines 50-55) to be distributed to the registered participants. As suggested by the Examiner (page 6 of the Remarks), a descramble key is sent to each of the participants (col. 16, lines 4-11) in order to descramble CATV signals, but it is sent from a centralized service center 1 that registers users and that manages content. A

security key is not sent in an attachment from one user as "an attachment in an IM message to another remote user," as recited in claim 20.

If anything, **Tsukada** teaches away from Applicant's invention by sending both video content and descrambling keys from a central system, where control is maintained. In Applicant's invention, there is no central control of content and keys, but rather any user may send an video attachment to any other user, but the attachment is viewed only if the receiving remote user has a key that matches the key sent with the attachment. Thus, among other things, users need not necessarily be receiving content from the same content distribution network at the same time (cable TV, internet, broadcast), and the user need not determine or worry about whether each IM recipient of the attachment is a subscriber to a premium or fee-based service, but rather avoids sending unauthorized attachments since the recipient cannot view the video unless he/she has (and has paid for) a key that matches the key sent with the attachment (see paragraph 0057 of the Specification)

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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